
OLR Bill Analysis

sHB 6453 (as amended by House "A")*

AN ACT CONCERNING GRANDPARENTS' VISITATION RIGHTS.

SUMMARY:

This bill establishes an 18-member task force to study issues related to visitation rights for grandparents and submit a report on its findings and recommendations to the Aging Committee by February 1, 2012.

Existing law allows grandparents and other third parties to petition for the right to visit a minor; and the court may grant the request, subject to conditions and limitations it deems equitable.

*House Amendment "A" replaces the original bill (File 107), which required the court to grant visitation rights to grandparents and other third parties who demonstrate, by a preponderance of the evidence, that (1) they have a parent-like relationship with the child and (2) the child will suffer real and substantial harm if visitation is denied.

EFFECTIVE DATE: Upon passage

GRANDPARENTS VISITATION RIGHTS' TASK FORCE DUTIES

The task force must study issues related to visitation rights for grandparents. These include:

1. legal and social issues related to grandparents' access to visitation,
2. impact of the loss of contact on families,
3. social supports to promote the continuation of these relationships, and
4. legislative proposals that are consistent with the state constitution.

TASK FORCE MEMBERSHIP

The task force consists of the chairpersons of the Aging, Children, and Judiciary committees, or their designees; a representative of the family law division of the Judicial Branch; the commissioner of Children and Families, or her designee; and the following 10 appointed members, who may be legislators:

Table 1: Task Force Appointed Members

<i>Appointing Authority</i>	<i>Number</i>	<i>Representation or Qualification</i>
House speaker	1	Advocacy group representing the interests of grandparents seeking visitation rights
Senate president pro tempore	1	Advocacy group representing the interests of children
House majority leader	1	Connecticut legal services program with experience working in family law
Senate majority leader	1	Family law section of the Connecticut Bar Association
House minority leader	3	<ul style="list-style-type: none"> • one attorney with experience representing parents • two ranking members of the Aging, Children, or Judiciary committees
Senate minority leader	3	<ul style="list-style-type: none"> • one social work professional • two ranking members of the Aging, Children, or Judiciary committees

Appointments to the task force must be made not later than 30 days after the bill's passage. The House speaker and Senate president pro tempore must select two of the members to serve as chairpersons, and the chairpersons must schedule the first meeting not later than 60 days after the bill takes effect. Any task force vacancy must be filled by the appointing authority.

The Aging Committee staff must serve as administrative staff, within available appropriations.

Report

The task force must submit its findings and recommendations, including any recommendations for legislation to enhance grandparents' visitation rights, to the Aging, Children, and Judiciary

committees by February 1, 2012. It terminates when it submits its report or on February 1, 2012, whichever is later.

BACKGROUND

Supreme Court Case on Visitation

In *Roth v. Weston*, a maternal grandmother and aunt petitioned under CGS § 46b-59 for visitation with children whose father had terminated it after the children's mother committed suicide (*Roth v. Weston*, 259 Conn. 202 (2002)). The relatives claimed that visitation was in the children's best interest, although they did not contend that the father was not a fit parent. In his response, the father presented reasons why he believed visitation was not in the children's best interest.

The trial court granted the petition but the Connecticut Supreme Court reversed. It ruled that CGS § 46b-59 would be unconstitutional unless it required any third party, including a grandparent or a great-grandparent, seeking visitation to make specific and good-faith allegations that (1) a parent-like relationship exists between the child and the person seeking visitation and (2) denial of the visitation will cause real and significant harm to the child. That degree of harm requires more than a determination that visitation would be in the child's best interest. It must be a degree of harm analogous to a claim that the child is neglected, uncared-for, or dependent within the meaning of Connecticut's child abuse statutes. (*Roth v. Weston*, 259 Conn. 202, 234-235 (2001)).

Once these high jurisdictional hurdles are overcome, the petitioner must prove the allegations by clear and convincing evidence. Only if that enhanced burden of persuasion has been met may the court enter an order of visitation.

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/10/2011)

Judiciary Committee

Joint Favorable

Yea 22 Nay 14 (04/26/2011)

Government Administration and Elections Committee

Joint Favorable

Yea 13 Nay 2 (05/19/2011)